

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 4494 OF 2023

(Avinash s/o Dattaji Zade & Ors. Vs. State of Maharashtra & Ors.)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri A.M. Jaltare, Advocate for the petitioners.

Ms S.S. Jachak, Assistant Government Pleader for respondent nos. 1 to 4.

CORAM : A. S. CHANDURKAR AND MRS. VRUSHALI V. JOSHI, JJ.

DATE : JULY 20, 2023

Heard.

2] The challenge raised in the present Writ Petition is to the action of eviction initiated by Gram Panchayat – Sawangi Meghe under the provisions of Section 53 of the Maharashtra Village Panchayats Act, 1958 by issuing notices to the petitioners. In the said notices, it has been stated that the same have been issued pursuant to the order dated 5/12/2022 passed in *Writ Petition No. 619/2022 (Prashil Ganeshji Sahu Vs. District Collector, Wardha and others)*. It is seen that all the petitioners have filed Regular Civil Suit No. 46/2023 in the Court of the Civil Judge Senior Division, Wardha praying therein that the Gram Panchayat be restrained from taking any action against them in view of notice dated 9/1/2023. In the said suit, the plaintiffs – petitioners had filed an application for temporary injunction which came to be decided on 16/6/2023 and the Civil Court refused to grant any order of injunction. It is thereafter that the present Writ Petition has been filed.

3] We find that since all the petitioners have approached the Civil Court and the application for temporary injunction has been rejected, it would be for the petitioners to challenge the said order by invoking the appellate remedy. The said remedy is still available to the petitioners. In that view of the matter, we are not inclined to interfere in writ jurisdiction.

4] The learned Counsel for the petitioners submits that some time may be granted to the petitioners to approach the Appellate Court for seeking appropriate relief. In the facts of the present case, notices dated 11/7/2023

issued to the petitioners by the Gram Panchayat are directed to be kept in abeyance for a period of two weeks from today. It is clarified that the Appellate Court shall consider the appeal on its own merits without being influenced by the order of this Court.

5] Keeping all the points raised in the Writ Petition open, it is disposed of. In the result, Civil Application No. 2203/2023 also stands disposed of. The learned Assistant Government to communicate this order to respondent no.4.

6] An authenticated copy of this order be supplied to the learned Counsel for the parties.

(MRS. VRUSHALI V. JOSHI, J.)

(A. S. CHANDURKAR, J.)

SUMIT